

James Everett Shelton
316 Covered Bridge Road
King of Prussia, PA 19406
(484) 626-3942
jeshelton595@gmail.com

Plaintiff, Pro Se

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JAMES EVERETT SHELTON
316 Covered Bridge Road
King of Prussia, PA 19406
Plaintiff

v.

PREMIUM MERCHANT FUNDING ONE,
LLC
55 Water Street, 50th Floor,
New York, NY, 10041
Defendant

No. _____

COMPLAINT:

Plaintiff, James Everett Shelton, brings this action against Defendant PREMIUM MERCHANT FUNDING ONE, LLC, and alleges based on personal knowledge and information, and belief, as follows:

Preliminary Statement

1. Defendant's e-mail marketing materials read: "*Do not be upset about getting a lot of funding phone calls every day, you should start to be worried if you won't get them.*" See Exhibit "1". The Plaintiff, James Everett Shelton, is exactly the wrong person to tell this to. Plaintiff is upset about getting a lot of Defendant's unwanted funding calls.
2. As the Supreme Court recently explained, "Americans passionately disagree about many things. But they are largely united in their disdain for robocalls. The Federal Government receives

a staggering number of complaints about robocalls—3.7 million complaints in 2019 alone. . . . For nearly 30 years, the people’s representatives in Congress have been fighting back.” *Barr v. Am. Ass’n of Pol. Consultants LLC*, 140 S. Ct. 2335, 2343 (2020).

3. Plaintiff James Everett Shelton (“Plaintiff”) brings this action under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, alleging that PREMIUM MERCHANT FUNDING ONE, LLC sent a series of automated telemarketing calls and text messages for the purposes of commercial solicitation by contacting Plaintiff’s cellular telephone number listed on the National Do-Not-Call Registry, which is prohibited by the TCPA.

4. Plaintiff never consented to receive any of these phone calls or text messages, which were placed to him for telemarketing purposes.

Parties

5. The Plaintiff is JAMES EVERETT SHELTON (“Plaintiff”), a natural person, resides in King of Prussia, PA 19406, and is a citizen of the Commonwealth of Pennsylvania, and was the individual who received the alleged phone calls in this case on his private mobile telephone, and was a resident of Pennsylvania during the calls, in this case in Montgomery County, Pennsylvania.

6. Defendant PREMIUM MERCHANT FUNDING ONE, LLC (“Premium”) is a limited liability company organized and existing under the laws of New York, and can be served at its principal place of business located at: 55 Water Street, 50th Floor, New York, NY, 10041. Defendant markets and sells, inter alia, loans and business financing to people in Pennsylvania, and engages in telemarketing into this district, as it did with the Plaintiff.

Jurisdiction & Venue

7. This Court has federal-question subject matter jurisdiction over Plaintiff's TCPA claims pursuant to 28 U.S.C. § 1331 because the TCPA is a federal statute. *Mims v. Arrow Fin. Servs., LLC*, 556 U.S. 368, 372 (2012).

8. This Court has personal jurisdiction over the Defendant because they have repeatedly placed calls and/or text messages to Pennsylvania residents with Pennsylvania telephone area codes, and derive revenue from Pennsylvania residents, and they sell goods and services to Pennsylvania residents, including the Plaintiff.

9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b)(1)-(2) in that Defendant conducts business in, and a substantial part of the events giving rise to Plaintiff's claims occurred in Montgomery County, Pennsylvania, and Plaintiff was residing in Pennsylvania for all calls, in King of Prussia, Montgomery County, Pennsylvania. Defendants conducts business in this judicial district by calling Pennsylvania citizens.

Statutory Background

The Telephone Consumer Protection Act

10. In 1991, Congress enacted the TCPA to regulate the explosive growth of the telemarketing industry. In so doing, Congress recognized that "[u]nrestricted telemarketing ... can be an intrusive invasion of privacy[.]" Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, § 2(5) (1991) (codified at 47 U.S.C. § 227).

The TCPA Prohibits Automated Telemarketing Calls

11. The TCPA makes it unlawful "to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using an automatic telephone dialing system or an artificial or prerecorded voice ... to any telephone number assigned to a ... cellular telephone service ... or any service for which the called party is charged for the call." See 47 U.S.C. § 227(b)(1)(A)(iii).

12. The TCPA provides a private cause of action to persons who receive calls in violation of 47 U.S.C. § 227(b)(1)(A). See 47 U.S.C. § 227(b)(3).

13. According to findings by the Federal Communication Commission ("FCC"), the agency Congress vested with authority to issue regulations implementing the TCPA, such calls are prohibited because, as Congress found, automated or prerecorded telephone calls are a greater nuisance and invasion of privacy than live solicitation calls, and such calls can be costly and inconvenient.

14. The FCC also recognized that “wireless customers are charged for incoming calls whether they pay in advance or after the minutes are used.” *In re Rules and Regulations Implementing the Tel. Consumer Prot. Act of 1991*, CG Docket No. 02-278, Report and Order, 18 F.C.C. Rcd. 14014, 14115 ¶ 165 (2003).

15. In 2013, the FCC required prior express written consent for all autodialed or prerecorded telemarketing calls (“robocalls”) to wireless numbers and residential lines. Specifically, it ordered that:

[A] consumer’s written consent to receive telemarketing robocalls must be signed and be sufficient to show that the consumer: (1) received “clear and conspicuous disclosure” of the consequences of providing the requested consent, i.e., that the consumer will receive future calls that deliver prerecorded messages by or on behalf of a specific seller; and (2) having received this information, agrees unambiguously to receive such calls at a telephone number the consumer designates.[] In addition, the written agreement must be obtained “without requiring, directly or indirectly, that the agreement be executed as a condition of purchasing any good or service.[]” *In the Matter of Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 27 F.C.C. Rcd. 1830, 1844 (2012) (footnotes omitted).

The National Do-Not-Call Registry

16. The National Do Not Call Registry allows consumers to register their telephone numbers and thereby indicate their desire not to receive telephone solicitations at those numbers. See 47 C.F.R. § 64.1200(c)(2). A listing on the Registry “must be honored indefinitely, or until the

registration is cancelled by the consumer or the telephone number is removed by the database administrator.” Id.

17. The TCPA and implementing regulations prohibit the initiation of telephone solicitations to residential telephone subscribers to the Registry. 47 U.S.C. § 227(c); 47 C.F.R. § 64.1200(c)(2).

18. The TCPA provides a private cause of action to persons who receive calls in violation of § 227(c) or a regulation promulgated thereunder. 47 U.S.C. § 227(c)(5).

19. A text message is considered a “call” under the TCPA. *Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663 (2016).

Factual Allegations

20. Defendant provides loans and business financing services to people in Pennsylvania and nationwide.

21. Defendant routinely violates the TCPA as a part of their business model and knowingly and willfully commit TCPA violations.

22. Defendant has been previously sued at least nine (9) times in federal and state courts across the country for allegedly violating the TCPA: *Stark v. Premium Merchant Funding One, LLC*, No. 37-2017-00353280-SC-SC-CTL (San Diego County Superior Court, State of California, Sep. 28, 2017), *Blevins v. Premium Merchant Funding One, LLC*, No. 2:18-cv-00377, S.D.O.H. Apr. 24, 2018), *Ewing v. 8 Figure Dream Lifestyle, LLC et. al.* No. 3:18-cv-01063 (S.D. Cal., May 29, 2018), *Hardin v. Premium Merchant Funding One, LLC*, No. 2:19-cv-07552 (C.D. Cal. Aug. 30, 2018), *Fabricant v. Premium Merchant Funding One, LLC*, No. 1:19-cv-00758 (S.D.N.Y. Jan. 25, 2019), *Hernandez v. Premium Merchant Funding One, LLC*, No. 1:19-cv01727 (S.D.N.Y. Feb. 25, 2019), *Schopp v. Premium Merchant Funding One, LLC*,

No. CV-2019-03026 (Denton County Court At Law #2, State of Texas, Sep. 5, 2019), *Ewing v. Premium Merchant Funding One, LLC* et al, 3:20-cv-01965 (S.D. Cal., Oct. 5, 2020), *Ewing v. Premium Merchant Funding One, LLC*, No. 3:22-cv-00215 (S.D. Cal., Feb. 16, 2022).

23. As can be seen above, many of these lawsuits were filed long before Plaintiff received the calls from Defendant as alleged in this action.

24. Despite these prior lawsuits, Defendant has failed to reform its business practices to bring them in compliance with the TCPA.

The Telemarketing Calls to the Plaintiff

25. At all times relevant hereto, Plaintiff maintained and used a residential cellular telephone line, with phone number (484) 626-3942.

26. At all times material hereto, Plaintiff was the subscriber of the telephone number (484) 626-3942 and paid his cell phone bill through T-Mobile.

27. Plaintiff's phone number is his private cell phone number and is used by Plaintiff solely.

28. Plaintiff's phone number is registered with T-Mobile as his personal telephone number and not as a business telephone number.

29. At all times material hereto when the calls as alleged in this case were made to Plaintiff, Plaintiff's telephone number was not held out by Plaintiff as the contact telephone number for any business.

30. Plaintiff's personal cellular telephone number is a "residential" telephone number that he uses for various personal, family, and household purposes, such as sending and receiving emails, timing food when cooking, sending and receiving text messages, calling friends and family while at home, using the phone's alarm function to wake up in the morning, and for navigation purposes.

31. Plaintiff's personal cellular telephone number (484) 626-3942 has been registered on the National Do-Not-Call Registry since June 26, 2015.

32. Plaintiff registered his phone number on the Do Not Call list in order to obtain solitude from invasive and harassing telemarketing calls and text messages. The telemarketing calls prevented Plaintiff from using his phone for legitimate purposes.

33. The Plaintiff has received at least twenty-seven (27) telemarketing calls between May 4, 2021 and February 28, 2022 to his personal cell phone number 484-626-3942, without his prior express written consent and not related to an emergency purpose, promoting working capital and/or financing services from Defendant.

34. **Call 1:** On May 4, 2021 at 10:37 AM the Plaintiff received a telemarketing call from Caller ID 646-583-4425.

35. Plaintiff was connected with a representative calling on behalf of Defendant Premium Merchant Funding One, LLC, who attempted to pitch Defendant's loan and/or financial services to the Plaintiff.

36. Plaintiff provided Defendant with his e-mail address and feigned interested in the telemarketing pitch for the sole purpose of identifying who was calling.

37. However, at no time did Plaintiff give Defendant permission to call him in the future. The Plaintiff told Defendant he would call them back if he had any questions or was interested in the Defendant's services.

38. As a result of this call, Plaintiff received an e-mail at 10:41 AM from Avi Stone, astone@pmfus.com, a "Funding Specialist" at Premium Merchant Funding, attempting to get the Plaintiff to submit an application for financing and/or a line of credit. *See Exhibit "1"*, a true and correct copy of said e-mail.

39. Interestingly enough, the e-mail read “**Remember**: Do not be upset about getting a lot of funding phone calls every day, you should start to be worried if you won't get them.”

40. **Call 2:** The Plaintiff received another call from Defendant on May 5, 2021 at 10:56 AM from caller ID 646-583-4425.

41. **DNC Request:** The Plaintiff stated he was busy and said if he was interested, he would call Defendant back, and asked not to receive any more calls from Defendant.

42. **Call 3 (text message):** On July 16, 2021 at 12:18 PM, the Plaintiff received an automated text message from caller ID 786-206-9099 which read as follows:

Let's get straight to the point we both have no time to lose. We have already spoke in the past so it will be very easy for me to boost your cash flow. Is there any current need? (Avi Stone – Premium Merchant Funding)”

43. A true and correct screenshot of the aforementioned automated text message attached to this Complaint as Exhibit “2”.

44. This text message was clearly sent via an “automatic telephone dialing system” because it was impersonal, generic, and not typed out and sent by a human being specifically.

45. The text was sent out as part of Defendant's *en masse* telemarketing campaign.

46. **Calls 4-8 (these were text messages):** Between August 31, 2021 and January 24, 2022, Plaintiff received an additional five (5) automated text messages from Defendant advertising Defendant's products and/or services. *See* Exhibit “3”, true and correct screenshots of these text messages, which were sent by the same caller ID, 786-206-9099.

47. **Call 9:** On January 27, 2022 at 2:30 PM, the Plaintiff received a call from phone number 973-851-3588 and answered.

48. The Plaintiff was connected with “Archan Patel”, also known as “Archie Patel” with Premium Merchant Funding, who attempted to sell Defendant’s loan products and services to the Plaintiff.

49. In order to identify the caller, Plaintiff requested that the caller send the Plaintiff an e-mail to confirm his identity and company information, but did not give Defendant and/or Defendant’s agent(s) permission for future calls back.

50. As a result of this call, “Archan Patel”, apatel@pmfus.com contacted Plaintiff via e-mail the at 2:39 PM (just two minutes after the call ended) with the subject line “Archie has your Back” attempting to get Plaintiff to fill out an application for funding.

51. Mr. Patel continued contacting the Plaintiff via telephone thereafter.

52. **Calls 10-11:** The Plaintiff received two (2) texts from Mr. Patel on January 27 and January 31, 2022, respectively, attempting to get the Plaintiff to fill out Defendant’s funding application.

53. **Call 12:** On February 1, 2022 at 1:02 PM, Plaintiff received a call from caller ID 615-622-4267, and upon answering, Plaintiff was connected with Mr. Patel.

54. **DNC Request:** Plaintiff told Mr. Patel he was busy and not to call again, and hung up the phone.

55. **Call 13:** At 2:06 PM on February 1, 2022, Plaintiff received another call from Mr. Patel from phone number 615-622-4267.

56. **Call 14:** Defendant texted Plaintiff using the caller ID 615-622-4267 at 2:13 PM on February 1, 2022.

57. The text message read:

James, Just sent you an email. Let me know if you have received it. The email subject is “Archie has your Back”

58. DNC Request: On February 1, 2022 at 2:39 PM, Plaintiff wrote to Defendant (apatel@pmfus.com) via e-mail, which read: “Archie, no more phone calls please.” *See* Exhibit “4”, a true and correct copy of said e-mail.

59. This e-mail was received by Mr. Patel, who e-mailed back just two minutes later at 2:41 PM: “I don’t know what happened.” *See* Exhibit “4”.

60. Mr. Patel, however, did know what happened. The Plaintiff had asked in writing not to receive any additional phone calls from Defendant and its agents.

61. Call 15: On February 3, 2022 at 6:21 PM, the Plaintiff received a call which displayed on his caller ID as 315-257-1194.

62. Plaintiff answered and was connected with “Bryce Fochtman” with Premium Merchant Funding, who attempted to sell Defendant’s loan and/or financial services to Plaintiff.

63. Plaintiff did not give Defendant permission for any calls back.

64. Calls 16-26: As detailed in the below table, Defendant’s agent, Bryce Fochtman, contacted Plaintiff an additional eleven (11) times via telemarketing calls between February 4 and February 28, 2022.

65. Call 27: On February 28, 2022 at 11:18 AM, Plaintiff received a text message from “Bryce Fochtman” at 11:18 AM from caller ID 315-257-1194 regarding Defendant’s financial services. *See* Exhibit “5”.

66. DNC Request: On February 28, 2022 at 11:18 AM, Plaintiff e-mailed Defendant’s representative at brycef@pmfus.com and wrote “Please stop calling”.

67. The following is a table detailing the automated text messages and phone calls sent by Defendant to the Plaintiff’s cell phone number:

| Call Number | Date: | Time | Caller ID: | Notes: |
|-------------|------------|----------|--------------|---|
| 1 | 5/4/2021 | 10:37 AM | 646-583-4425 | Received email from "Avi Stone", astone@pmfus.com at 10:41 AM. |
| 2 | 5/5/2021 | 10:56 AM | 646-583-4425 | |
| 3 | 7/16/2021 | 12:18 PM | 786-206-9099 | Text message "Let's get straight to the point we both have no time to lose. We have already spoke in the past so it will be very easy for me to boost your cash flow. Is there any current need? (Avi Stone – Premium Merchant Funding)" |
| 4 | 8/31/2021 | 11:17 AM | 786-206-9099 | Text message "Hello how are you? My manager sent me your details, seems like you generate between \$60,000 to \$90,000 a month and I have been told that you are looking to boost your cash flow with a same amount. Is that right? Still relevant?" |
| 5 | 10/4/2021 | 11:03 AM | 786-206-9099 | Text message "If you don't have a plan for expansion it should raise a big question mark, but if you do: I have the ability to get you the funds you were looking for with comfortable terms. We overtake all our competitors and by a wide margin. – Easy Approvals from \$50,000 to \$5M (Starts from 6% APR!). Try me. Reply the email address to send you an email with my info and you will see me proving." |
| 6 | 12/22/2021 | 4:55 PM | 786-206-9099 | Automated Text Message: "Last Heads-up! 9 Days left (12/31/2021) to request the EIDL Government funds. Don't you wanna take advantage of the most lucrative loan in the industry? - 3.75% APR Up to 30 Years \$500k Unsecured - \$2m Secured Payments start 3rd year - The fastest in the industry. 5 days for approval and 4-6 weeks for depositing the money. – Reply the |

| | | | | |
|----|------------|----------|--------------|--|
| | | | | best email to reach you and LET'S GO!" |
| 7 | 12/29/2021 | 11:14 AM | 786-206-9099 | Automated Text Message: "Last Heads-up! 2 Days left (12/31/2021) to request the EIDL Government funds. Don't you wanna take advantage of the most lucrative loan in the industry? - 3.75% APR Up to 30 Years \$500k Unsecured - \$2m Secured Payments start 3rd year - The fastest in the industry. 5 days for approval and 4-6 weeks for depositing the money. – Reply the best email to reach you and LET'S GO!" |
| 8 | 1/24/2022 | 12:45 PM | 786-206-9099 | Automated Text Message: "Hey Boss – How do you imagine 2022 achievements? - \$5,000 to \$5,000,000 – Line of Credit, Term Loans, Real Estate HUGE Department, Consolidations, SBA Loans, Credit Repair & Processing and many more! – Reply the best email to reach you at and let's execute big plans." |
| 9 | 1/27/2022 | 2:30 PM | 973-851-3588 | Lasted 7 minutes |
| 10 | 1/27/2022 | 2:42 PM | 973-851-3588 | Text "Pleasure speaking with you James. Looking forward to working on your application. The email has been sent." |
| 11 | 1/31/2022 | 1:59 PM | 973-851-3588 | Text "Hello James, It's Archie. You think you can get that application over to me today?" |
| 12 | 2/1/2022 | 1:02 PM | 615-622-4267 | |
| 13 | 2/1/2022 | 2:06 PM | 615-622-4267 | |
| 14 | 2/1/2022 | 2:13 PM | 615-622-4267 | Text "James, Just sent you an email. Let me know if you have received it. The email subject is "Archie has your Back" |
| | 2/1/2022 | 2:39 PM | EMAIL | SENT DNC EMAIL TO apatel@pmfus.com "Archie, no more phone calls please." |

| | | | | |
|----|-----------|----------|--------------|--|
| 15 | 2/3/2022 | 6:21 PM | 315-257-1194 | Lasted 4 minutes. |
| 16 | 2/4/2022 | 3:48 PM | 315-257-1194 | Voicemail from Bryce |
| 17 | 2/7/2022 | 2:38 PM | 315-257-1194 | Voicemail from Bryce |
| 18 | 2/9/2022 | 11:43 AM | 315-257-1194 | Voicemail from Bryce |
| 19 | 2/9/2022 | 5:18 PM | 615-622-4267 | Lasted 1 minute |
| 20 | 2/14/2022 | 11:44 AM | 615-622-4267 | Voicemail from Bryce |
| 21 | 2/14/2022 | 11:44 AM | 315-257-1194 | Missed Call |
| 22 | 2/15/2022 | 6:03 PM | 315-257-1194 | Missed Call |
| 23 | 2/16/2022 | 1:01 PM | 315-257-1194 | Missed Call |
| 24 | 2/17/2022 | 1:02 PM | 315-257-1194 | Lasted 1 minute |
| 25 | 2/21/2022 | 1:45 PM | 315-257-1194 | Missed Call |
| 26 | 2/28/2022 | 10:56 AM | 315-257-1194 | Missed Call |
| 27 | 2/28/2022 | 11:18 AM | 315-257-1194 | Text from Bryce |
| | 2/28/2022 | 11:18 AM | EMAIL | DNC email sent to brycef@pmfus.com |

68. Plaintiff did not want or need a loan or any financing.

69. The impersonal and generic nature of Defendant's text messages demonstrate that Defendant utilized an Automatic Telephone Dialing System (ATDS) in sending six (5) of these text messages (described as Calls #3-8 in the above-table).

70. These facts, as well as the geographic distance between the Plaintiff and Defendant and the fact that this was clearly an aggressive nationwide telemarketing campaign, indicate that these text messages were made using an ATDS.

71. Upon information and belief, Defendant's ATDS used a random or sequential number generator to send automated text messages to his cell phone.

72. Defendant did not have the Plaintiff's prior express written consent to send any of these text messages.

73. Prior to these unsolicited telephone communications, the Plaintiff has never done any business with Defendant and Plaintiff never provided Defendant with his cellular telephone number.

74. To the extent Defendant contends that they obtained consent or agreement from Plaintiff for the calls at issue here, the Telemarketing Sales Rule, 16 C.F.R. § 310.5(a)(5), requires that such records be maintained. In any event, consent is an affirmative defense under the TCPA, this defense is unavailable unless Defendant can show that they had prior express consent in writing, and that they have otherwise complied with all of the requirements of 47 C.F.R. § 64.1200(c)(2), including maintaining written procedures on national do-not-call rules, training personnel on national do-not-call rules, maintaining an internal do-not-call list, and accessing the national do-not-call database no more than 31 days prior to making any calls, and maintaining records documenting such access. Defendant did not have prior express written consent to such calls from Plaintiff.

75. Plaintiff pays for each incoming and outgoing call on his telephone under an unlimited calling arrangement, as defined and set forth in 47 CFR § 64.1200(a)(1)(iii).

76. Plaintiff received the calls on his private mobile telephone, as defined and set forth in 47 CFR § 64.1200(a)(1)(iii). Plaintiff's telephone number is registered with T-Mobile as a cellular telephone number and is used for personal purposes.

77. These telephone solicitations constituted “calls” under the TCPA that were not for emergency purposes.

78. Defendant is not an organization exempt from the TCPA.

79. Defendant’s calls to Plaintiff were “telephone solicitations” as defined by the TCPA.

80. Defendant’s calls to Plaintiff were “unsolicited advertisements” as defined by the TCPA.

81. Plaintiff was harmed by these calls. Plaintiff was temporarily deprived of legitimate use of his phone because of the text message and telephone call notifications, and his privacy was improperly invaded. Moreover, these calls injured Plaintiff because they were frustrating, obnoxious, annoying, were a nuisance and disturbed the solitude of plaintiff. The calls caused Plaintiff’s cell phone battery’s depletion, used up cellular data, and prevented Plaintiff from otherwise using his telephone for lawful purposes.

82. In summary, Plaintiff received twenty-seven (27) telemarketing calls from Defendant to Plaintiff’s personal cell phone number which is registered on the National Do-Not-Call list. Six (6) of these were text messages (#3-8) which Plaintiff also alleges were sent via an ATDS.

Causes Of Action

First Cause of Action

(Negligent Violations of the TCPA, “ATDS” Prohibition, 47 U.S.C. § 227(b) et seq.)

83. Plaintiff incorporates and realleges, as though fully set forth herein, each of the paragraphs above.

84. Defendant initiated text messages to Plaintiff’s cellular telephone using an “automatic telephone dialing system” as defined by the TCPA on at least six (6) occasions in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

85. As a result of Defendant's and Defendant's agents' negligent violations of 47 U.S.C. § 227(b)(1)(A), Plaintiff seeks for himself \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

86. Pursuant to 47 U.S.C. § 227(b)(3)(A), Plaintiff seeks injunctive relief prohibiting such conduct in the future.

Second Cause of Action

(Knowing and/or Willful Violation of the TCPA
"ATDS" Prohibition, 47 U.S.C. § 227(b) et seq.)

87. Plaintiff incorporates and realleges, as though fully set forth herein, each of the paragraphs above.

88. Defendant sent text messages Plaintiff's cellular telephone using an "automatic telephone dialing system" as defined by the TCPA on at least six (6) occasions in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

89. Plaintiff was statutorily damaged at least six (6) times under 47 U.S.C. § 227(b)(3)(B) by the Defendant by the text messages described above.

90. As a result of Defendant's and Defendant's agents' knowing and/or willful violations of 47 U.S.C. § 227(b)(1)(A), Plaintiff seeks for himself treble damages, as provided by statute, up to \$1,500.00 for each and every violation, pursuant to 47 U.S.C. § 227(b)(3).

91. Pursuant to 47 U.S.C. § 227(b)(3)(A), Plaintiff seeks injunctive relief prohibiting such conduct in the future.

Third Cause of Action

(Negligent Violation of the TCPA "Sales Call/DNC" Prohibition, 47 U.S.C. § 227(c) et seq.)

92. Plaintiff incorporates and realleges, as though fully set forth herein, each of the paragraphs above.

93. Defendant called Plaintiff's private residential telephone number which was successfully registered on the National Do-Not-Call Registry more than thirty-one (31) days prior to the calls, in violation of 47 U.S.C. § 227(c)(3)(F), and 47 C.F.R. § 64.1200(c)(2).

94. Plaintiff was statutorily damaged at least twenty-seven (27) times under 47 U.S.C. § 227(c)(3)(F) by the Defendant by the telephone calls described above, in the amount of \$500.00 per call.

95. As a result of Defendant's and Defendant's agents' violations of 47 U.S.C. § 227(c)(3)(F), and 47 C.F.R. § 64.1200(c)(2), Plaintiff seeks for himself \$500.00 in statutory damages for each and every violation, pursuant to 47 U.S.C. § 227(c)(3)(F).

96. Pursuant to 47 U.S.C. § 227(b)(3)(A), Plaintiff seeks injunctive relief prohibiting such conduct in the future.

Fourth Cause of Action

(Knowing and/or Willful Violation of the TCPA
"Sales Call/DNC" Prohibition, 47 U.S.C. § 227 et seq.)

97. Plaintiff incorporates and realleges, as though fully set forth herein, each of the paragraphs above.

98. Defendant called Plaintiff's private residential telephone number which was successfully registered on the National Do-Not-Call Registry more than thirty-one (31) days prior to the calls, in violation of 47 U.S.C. § 227(c)(3)(F), and 47 C.F.R. § 64.1200(c)(2).

99. Plaintiff was statutorily damaged at least twenty-seven (27) times under 47 U.S.C. § 227(c)(3)(F) by the Defendants by the automated text messages described above, in the trebled amount of \$1,500.00 per call.

100. As a result of Defendant's and Defendant's agents' knowing and/or willful violations

of 47 U.S.C. § 227(c)(3)(F), and 47 C.F.R. 64.1200(c)(2), Plaintiff seeks for himself treble damages, as provided by statute, up to \$1,500.00 for each and every violation, pursuant to 47 U.S.C. § 227(c)(5).

WHEREFORE, Plaintiff prays for relief against defendants, and each of them, as follows:

I. Prayer for Relief

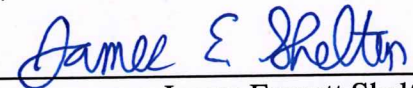
On Causes of Action 1-4:

1. For awards of \$500 for each negligent violation as set forth in actions 1-4.
2. For awards of \$1,500 for each knowing and/or willful violation as set forth in actions 1-6.
3. Injunctive relief against Defendants, and each of them, to prevent future wrongdoing;
Total statutory damages: **\$49,500.00** (Six (6) counts of: "Automated Text Message", and Twenty-Seven (27) counts of "Sales call to a number registered on the National Do-Not-Call Registry", with treble damages for each.)
4. Prejudgment interest at the maximum legal rate;
5. Costs of suit herein incurred; and
6. All such other and further relief as the Court deems proper.

II. Demand for Jury Trial

Plaintiff hereby demands a trial by jury on all claims so triable.

Dated: March 29, 2022



James Everett Shelton
Plaintiff, Pro Se
316 Covered Bridge Road
King of Prussia, PA 19406
Phone: 484-626-3942
Jeshelton595@gmail.com

VERIFICATION

I, JAMES EVERETT SHELTON, Plaintiff, Pro Se, verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. I understand that the statements made herein are subject to the penalties of 18 PA. C.S. § 4904 related to unsworn falsification to authorities.

Dated: March 29, 2022


JAMES EVERETT SHELTON

CIVIL COVER SHEET

ver sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the filing the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

PLAINTIFFS**JAMES EVERETT SHELTON**(b) County of Residence of First Listed Plaintiff **MONTGOMERY**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

**James Everett Shelton, Plaintiff Pro Se, 316 Covered
Bridge Road, King of Prussia, PA 19406, 484-626-3942****DEFENDANTS****PREMIUM MERCHANT FUNDING ONE, LLC**County of Residence of First Listed Defendant **NEW YORK**
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Unknown**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|--|--|---|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
47 U.S.C. 227 et seq
 Brief description of cause:
Violations of the TCPA

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
49,500.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/29/2022

SIGNATURE OF ATTORNEY OF RECORD

James E. Shelton

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 316 Covered Bridge Road, King of Prussia, PA 19406

Address of Defendant: 55 Water Street, 50th Floor, New York, NY 10041

Place of Accident, Incident or Transaction: By phone call to Plaintiff's phone in King of Prussia, Pennsylvania

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 03/29/2022

James E. Shelton
Must sign here

Attorney-at-Law / Pro Se Plaintiff

Pro Se

Attorney I.D. # (if applicable)

CIVIL: (Place a √ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☒ 11. All other Federal Question Cases

(Please specify): TCPA, 47 U.S.C. 227

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases

(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, James Everett Shelton, counsel of record or pro se plaintiff, do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
- ☒ Relief other than monetary damages is sought.

DATE: 03/29/2022

James E. Shelton
Sign here if applicable

Attorney-at-Law / Pro Se Plaintiff

Pro Se

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

JAMES EVERETT SHELTON

CIVIL ACTION

v.

PREMIUM MERCHANT FUNDING ONE,
LLC

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

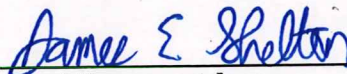
- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

03/29/2022

Date

484-626-3942

Telephone



Attorney-at-law

FAX Number

Pro Se

Attorney for

jeshelton595@gmail.com

E-Mail Address

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

PRESS FIRMLY TO SEAL



PRE



1022



19106

U.S. POSTAGE PAID
PM 2-DAY
MONROVIA, CA
91016
MAR 31, 22
AMOUNT

\$8.95

R2303S102671-18



**UNITED STATES
POSTAL SERVICE®**

**PRIORITY®
MAIL**

- Expected delivery date specified for domestic use.
 - Most domestic shipments include up to \$50 of insurance (restrictions apply).*
 - USPS Tracking® included for domestic and many international destinations.
 - Limited international insurance.**
 - When used internationally, a customs declaration form is required.
- *Insurance does not cover certain items. For details regarding claims exclusions, see the Domestic Mail Manual at <http://pe.usps.com>.
- **See International Mail Manual at <http://pe.usps.com> for availability and limitations of coverage.



FLAT RATE ENVELOPE
ONE RATE ■ ANY WEIGHT

TRACKED - INSURED

EXPECTED DELIVERY DAY: 04/04/22

USPS TRACKING® #



9505 5142 4800 2090 6551 25

To schedule free Package Pickup,
scan the QR code.



[USPS.COM/PICKUP](https://usps.com/pickup)

FROM:

James Everett Shelton
316 Covered Bridge Rd
King of Prussia, PA 19106

TO:

Clerk U.S. District Court
601 Market Street
Room 2609
Philadelphia, PA 19106

